

February 25, 2005

DAVID J KOVANEN  
ONE CALEDONIA SUMMIT  
BROWNS POINT WA 98422

Subject: Complaint Alleging Violations of RCW 42.17.130 by Officials of  
Pierce County Fire District 13 – PDC Case No. 04-453

Dear Mr. Kovanen:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received on September 13, 2002 and supplemented on September 20, 2002 alleging that officials of Pierce County Fire Protection District 13 had used public facilities to promote passage of a bond, in violation of RCW 42.17.130. On September 23, 2002, you were informed that investigation of your complaint had been suspended because of a permanent injunction issued in King County Superior Court concerning the application of certain aspects of RCW 42.17.130. The State Supreme Court later reversed the injunction, and on April 27, 2004 you were notified that the PDC would investigate your allegations.

The PDC staff reviewed your allegations in light of the following statute and administrative rule.

**RCW 42.17.130** prohibits elected officials, their employees, and persons appointed to or employed by a public office or agency from using or authorizing the use of public facilities, directly or indirectly, for the purpose of assisting a candidate's campaign or for the promotion of, or opposition to, any ballot proposition. This prohibition does not apply to activities that are part of the normal and regular conduct of the office or agency.

**WAC 390-05-273** defines "normal and regular" conduct to mean conduct which is (1) lawful, i.e. specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e. not effected or authorized in or by some extraordinary means or manner.

You alleged that officials of Pierce County Fire District No. 13 used public facilities, through the use of mailings and Fire District 13 equipment and staff to promote its September 17, 2002 Capital Bond Measure.

We found:

- A 4-page mailing was paid for by Pierce County Fire District 13 that consisted of a two-page letter addressed to “Dear Neighbors” from the Board of Commissioners and a two page Question and Answer document. The Fire District sent out the mailing in response to what District officials perceived as “*misstatements of fact*” that were being disseminated in the community. District officials stated that they believed sending out the mailing to “*set the record straight*” was “normal and regular conduct” for the District.
- The two-page letter contained language such as: 1) “*But what the District wants to do is enhance an already successful program, by implementing paramedic service in this district.*” and 2) “*The proposition is worthy of voter support, because the district cannot improve further without it.*” The letter took issue with what it stated were “*significant factual inaccuracies and contentions that are simply untrue.*” The District stated that some of these inaccuracies concerned the Fire District’s budget.
- District officials stated that the complaint included erroneous allegations about the Fire District’s budget because it used budget documents from the Pierce County Budget and Finance Report rather than the Fire Department’s actual budget. The District explained that the misunderstanding about budget items and amounts resulted from the County and Fire District assigning different line items to the same budget identification numbers in their respective documents.
- While the complaint alleged that yard signs promoting passage of the bond measure were placed around the District, no evidence was provided that District officials had any connection to the placement of the yard signs. District officials denied that the District paid for or erected any of the signs.
- The Fire District posted a statement on the Dash Point Community sign board promoting the Ballot Measure. It stated, “PARAMEDICS – YES YOUR FIRE FIGHTERS” The District stated that it did not spend any District funds to place the statement on the sign.
- Use of the word, “Emergency” in the District’s Resolution No, 02-202, placing Proposition 1 on the September 17, 2002 ballot, was due to a misunderstanding by District officials who mistakenly believed that an “emergency” had to be declared by the County Auditor before the measure could be placed on the ballot.

There is evidence to support allegations that officials of Pierce County Fire District 13 used District resources to promote Proposition 1. However, since the complaint was filed, the following changes have occurred at the District:

1. Troy Finlayson, who was a Commissioner of Pierce County Fire District 13 at the time the alleged violations occurred, has resigned;
2. Fire Chief Shawn McDonald has been terminated and members of the fire department senior staff have either resigned or been replaced; and
3. A Citizen’s Oversight and Advisory Board was appointed shortly after the election to oversee department finance, operations and management.

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Given the above-noted changes at the District since the complaint was filed, including the departure of those responsible for the alleged violations, and your request to withdraw the complaint you filed, formal enforcement action will not be pursued in this instance.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against officials of Pierce County Fire District 13.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853, or toll-free at 1-877-601-2828.

Sincerely,

Vicki Rippie  
Executive Director

c: Pierce County Fire District 13